

**CITY OF EL PASO, TEXAS  
AGENDA ITEM  
DEPARTMENT HEAD'S SUMMARY FORM**

**DEPARTMENT:** Aviation

**AGENDA DATE:** 12/10/2013

**CONTACT PERSON/PHONE:** Monica Lombraña, AAE, Director of Aviation, 780-4793

**DISTRICT(S) AFFECTED:** All

**SUBJECT:**

It is requested that City Manager be authorized to sign a Cable Relocation Reimbursable Agreement (AJW-FN-CSA-14-2123) between the City of El Paso and the Federal Aviation Administration ("FAA") whereby the FAA will provide services necessary for the modification or relocation of FAA conduit or cables as part of the Realignment of Taxiway "A" Project at the El Paso International Airport.

**BACKGROUND / DISCUSSION:**

EPIA is to realign Taxiway "A", convert Taxiway "B" to a stopway, and remove Taxiways "C" and "E". These Taxiways are in close proximity to FAA power and control cables, which support FAA equipment for the Instrument Landing System and Visual Landing Aids serving Runway 04/22 and Runway 08R/26L. EPIA's project may impact FAA assets and require the relocation of said cabling infrastructure. An on-site FAA Technician and Resident Engineer will be required during the construction activities. This agreement will place funds in place, \$40,000, to prepay the estimated cost of the activities. The FAA will provide detailed expenditure reports and any funds not used will be reimbursed back to the City and FAA.

**PRIOR COUNCIL ACTION:**

Award of construction project Realignment of Taxiway "A" to J.A.R. Concrete, Inc. dba J.A.R. Construction, Inc. in the amount of \$4,644,625.00 on October 8, 2013.

**AMOUNT AND SOURCE OF FUNDING:**

\$40,000 – FAA Airport Improvement Program (AIP) 90%, EPIA Revenue Funds (10%)

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**BOARD / COMMISSION ACTION:**

N/A

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:** \_\_\_\_\_



(If Department Head Summary Form is initiated by Purchasing, client department should sign also)  
*Information copy to appropriate Deputy City Manager*

## RESOLUTION

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

That the City Manager be authorized to sign a Cable Relocation Reimbursable Agreement (AJW-FN-CSA-14-2123) between the City of El Paso and the Federal Aviation Administration ("FAA") whereby the FAA will provide services necessary for the modification or relocation of FAA conduit or cables as part of the Realignment of Taxiway "A" Project at the El Paso International Airport.

**ADOPTED** this the \_\_\_\_\_ day of \_\_\_\_\_, 2013.


**THE CITY OF EL PASO**

**ATTEST:**

\_\_\_\_\_  
Oscar Leeser  
Mayor

\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

**APPROVED AS TO FORM:**



\_\_\_\_\_  
Theresa Cullen  
Deputy City Attorney

**APPROVED AS TO CONTENT:**



\_\_\_\_\_  
Monica Lombraña, A.A.E.  
Director of Aviation

**CABLE RELOCATION REIMBURSABLE AGREEMENT**

**BETWEEN**

**DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION**

**AND**

**CITY OF EL PASO  
EL PASO INTERNATIONAL AIRPORT  
EL PASO, TEXAS**

**WHEREAS**, the Federal Aviation Administration (FAA) can furnish directly or by contract, materials, supplies, equipment, and services which the City of El Paso (Sponsor) requires, has funds available for, and has determined should be obtained from the FAA;

**WHEREAS**, it has been determined that competition with the private sector for provision of such services is minimal; the proposed activity will advance the FAA's mission; and the FAA has a unique capability that will be of benefit to the Sponsor while helping to advance the agency's mission;

**WHEREAS**, the authority for the FAA to furnish services to the Sponsor upon a reimbursable payment basis is found in 49 U.S.C. § 106(l)(6) on such terms and conditions as the Administrator may consider necessary;

**NOW THEREFORE**, the FAA and the Sponsor mutually agree as follows:

**ARTICLE 1. Parties**

The Parties to this Agreement are the FAA and City of El Paso.

**ARTICLE 2. Type of Agreement**

This Agreement is an "other transaction" authorized under 49 U.S.C. § 106(l)(6). It is not intended to be, nor will it be construed as, a partnership, corporation, joint venture or other business organization.

**ARTICLE 3. Scope**

This Agreement provides funding for FAA services to support modification or relocation of FAA conduit or cables necessitated by the Sponsor's project:

The Sponsor's project at El Paso International Airport, Texas is to realign Taxiway "A", convert Taxiway "B" to a stopway, and remove Taxiways "C" and "E". These Taxiways are in close proximity to FAA power and control cables, which support FAA equipment for the Instrument Landing System and Visual Landing Aids serving RWY 04/22 and RWY 08R/26L. The Sponsor's project may impact FAA assets and may require the relocation of said cabling infrastructure, an on-site FAA Technician and Resident Engineer will be required during the construction activities.

Therefore, this Agreement is titled:

Cable Relocation Reimbursable Agreement for Realignment of Taxiway "A" at El Paso International Airport (ELP), Texas.

A. The FAA will perform the following activities:

1. Provide engineering design review to ensure the Sponsor's design conforms to FAA design standards.
2. Provide resident engineering services to monitor the pertinent portions of the Sponsor's construction contract.
3. Ensure the relocated/modified conduits and cables are installed in accordance with FAA standards.
4. Perform cable terminations or reconnections at FAA-owned facilities or equipment, or provide oversight if the terminations or reconnections aren't performed by the FAA.
5. Participate in the Sponsor's Contract Acceptance Inspection and FAA Joint Acceptance Inspection, if required, to return the affected FAA facilities to service.
6. Update applicable FAA configuration-controlled cable baseline drawings to reflect changes.

B. The Sponsor will perform the following activities:

1. Provide the FAA with the pertinent sheets/sections of the project plans and specifications for the Sponsor's project which will impact the FAA's conduits and cables.
2. Provide regularly updated project schedules to the FAA.
3. Coordinate the scheduling of any FAA facility shutdowns with the FAA.
4. Construct new underground duct banks, and install and terminate the relocated cables.
5. Provide direction and instruction to its contractors in accordance with comments and instructions received from the FAA.
6. Facilitate and participate in a Contract Acceptance Inspection and FAA Joint Acceptance Inspection, if applicable, to accept the contractor's completed work and prior to returning the FAA facilities and equipment to service.
7. Provide an electronic version of "as-built" drawings derived from the construction "red line" drawings such that FAA can incorporate the drawings into final drawings with the standard FAA format.

This agreement is in whole or in part funded with funding from an AIP grant [X] Yes [ ] No. If Yes, the grant date is: 09/16/2013 and the grant number is: AIP 3-48-0077-033-2013.

#### **ARTICLE 4. Points of Contact**

**A. FAA:**

1. The FAA, Air Traffic Organization, Central Service Area, Infrastructure Engineering Center A, Fort Worth, Texas) will perform the scope of work included in this Agreement. Johnnie White is the Manager, Infrastructure Engineering and liaison with the Sponsor and can be reached at (817) 222-4571. This liaison is not authorized to make any commitment, or otherwise obligate the FAA, or authorize any changes which affect the estimated cost, period of performance, or other terms and conditions of this Agreement.
2. FAA Contracting Officer: The execution, modification, and administration of this Agreement must be authorized and accomplished by the Contracting Officer, Bradley K. Logan who can be reached at (817) 222-4395 or via electronic mail at [brad.logan@faa.gov](mailto:brad.logan@faa.gov).

**B. Sponsor:**

City of El Paso  
ATTN: Monica Lombrana  
Director of Aviation  
6701 Convair Road  
El Paso, Texas 79925  
Telephone: (915) 780-4793  
Facsimile: (915) 779-5452  
Email: [lombranamx@elpasotexas.gov](mailto:lombranamx@elpasotexas.gov)

#### **ARTICLE 5. Non-Interference with Operations**

The Sponsor understands and hereby agrees that any relocation, replacement, or modification of any existing or future FAA facility, system, and/or equipment covered by this Agreement during its term or any renewal thereof made necessary by Sponsor improvements, changes, or other actions which in the FAA's opinion interfere with the technical and/or operations characteristics of an FAA facility, system, and/or piece of equipment will be at the expense of the Sponsor, except when such improvements or changes are made at the written request of the FAA. In the event such relocations, replacements, or modifications are necessitated due to causes not attributable to either the Sponsor or the FAA, the parties will determine funding responsibility.

#### **ARTICLE 6. Reserved**

**ARTICLE 7. Estimated Costs**

The fully-loaded estimated FAA cost associated with this Agreement is \$40,000.00. The fully-loaded estimated cost includes overhead.

**ARTICLE 8. Period of Agreement and Effective Date**

The effective date of this Agreement is the date of the last signature. This Agreement is considered complete when the final invoice is provided to the Sponsor and a refund is sent or payment is received as provided for in Article 9, Section E of this Agreement. Under no circumstances will this Agreement extend 18 months beyond its effective date.

**ARTICLE 9. Reimbursement and Accounting Arrangements**

- A. The Sponsor agrees to prepay the entire estimated cost of the Agreement. The Sponsor will send a copy of the executed Agreement and full advance payment in the amount stated in Article 7 to the Accounting Division listed in Section C of this Article. The advance payment will be held as a non-interest bearing deposit. Such advance payment by the Sponsor must be received before the FAA incurs any obligation to implement this Agreement.
- B. The Sponsor certifies that arrangements for sufficient funding have been made to cover the estimated costs of the Agreement.
- C. The Accounting Division is identified by the FAA as the billing office for this Agreement. The Sponsor will send a copy of the executed Agreement and the full advance payment to the Accounting Division shown below. All payments must include the Agreement number, Agreement name, Sponsor name, and project location.

The mailing address is:

FAA Mike Monroney Aeronautical Center  
Attn: AMZ-330, Reimbursable Project Team  
P.O. Box 25082  
Oklahoma City, OK 73125

The overnight mailing address is:

FAA Mike Monroney Aeronautical Center  
Attn: AMZ-330, Reimbursable Project Team  
6500 S. MacArthur Blvd.  
Oklahoma City, OK 73169  
Telephone: (405) 954-6724

The Sponsor hereby identifies the office to which the FAA will render bills for the project costs incurred as:

City of El Paso  
Attn: Samuel Rodriguez  
Assistant Director Aviation Development  
6701 Convair Road  
El Paso, Texas 79925  
Telephone: (915) 780-4766  
Facsimile: (915) 779-5452  
Email: rodriguez3@elpasotexas.gov

- D. The FAA will provide a quarterly Statement of Account of costs incurred against the advance payment.
- E. The cost estimates contained in Article 7 are expected to be the maximum costs associated with this Agreement, but may be modified to recover the FAA's actual costs. If during the course of this Agreement actual costs are expected to exceed the estimated costs, the FAA will notify the Sponsor immediately. The FAA will also provide the Sponsor a modification to the Agreement which includes the FAA's additional costs. The Sponsor agrees to prepay the entire estimated cost of the modification. The Sponsor will send a copy of the executed modification to the Agreement to the FAA-Mike Monroney Aeronautical Center with the additional advance payment. Work identified in the modification cannot start until receipt of the additional advance payment. In addition, in the event that a contractor performing work pursuant to the scope of this Agreement brings a claim against the FAA and the FAA incurs additional costs as a result of the claim, the Sponsor agrees to reimburse the FAA for the additional costs incurred whether or not a final bill or a refund has been sent.

#### **ARTICLE 10. Changes and Modifications**

Changes and/or modifications to this Agreement will be formalized by an appropriate written modification that will outline in detail the exact nature of the change. Any modification to this Agreement will be executed in writing and signed by the authorized representative of each party. The parties signing this Agreement and any subsequent modification(s) represent that each has the authority to execute the same on behalf of their respective organizations. No oral statement by any person will be interpreted as modifying or otherwise affecting the terms of the Agreement. Any party to this Agreement may request that it be modified, whereupon the parties will consult to consider such modifications.

#### **ARTICLE 11. Termination**

In addition to any other termination rights provided by this Agreement, either party may terminate this Agreement at any time prior to its expiration date, with or without cause, and without incurring any liability or obligation to the terminated party other than payment of amounts due and owing and performance of obligations accrued, in each case on or prior to the termination date, by giving the other party at least thirty (30) days prior

written notice of termination. Payment of amounts due and owing may include all costs reimbursable under this Agreement, not previously paid, for the performance of this Agreement before the effective date of the termination; the total cost of terminating and settling contracts entered into by the FAA for the purpose of this Agreement; and any other costs necessary to terminate this Agreement. Upon receipt of a notice of termination, the receiving party will take immediate steps to stop the accrual of any additional obligations which might require payment. All funds due after termination will be netted against the advance payment and, as appropriate, a refund or bill will be issued.

## **ARTICLE 12. Order of Precedence**

If attachments are included in this Agreement and in the event of any inconsistency between the attachments and the terms of this Agreement, the inconsistency will be resolved by giving preference in the following order:

- A. This Agreement
- B. The attachments

## **ARTICLE 13. Legal Authority**

This Agreement is entered into under the authority of 49 U.S.C. § 106(l)(6), which authorizes the Administrator of the FAA to enter into and perform such contracts, leases, cooperative agreements and other transactions as may be necessary to carry out the functions of the Administrator and the Administration on such terms and conditions as the Administrator may consider appropriate. Nothing in this Agreement will be construed as incorporating by reference or implication any provision of Federal acquisition law or regulation.

## **ARTICLE 14. Disputes**

Where possible, disputes will be resolved by informal discussion between the parties. In the event the parties are unable to resolve any dispute through good faith negotiations, the dispute will be resolved by alternative dispute resolution using a method to be agreed upon by the parties. The outcome of the alternative dispute resolution will be final unless it is timely appealed to the Administrator, whose decision is not subject to further administrative review and, to the extent permitted by law, is final and binding (see 49 U.S.C. § 46110).

## **ARTICLE 15. Reserved**

## **ARTICLE 16. Insurance**

The Sponsor will arrange by insurance or otherwise for the full protection of itself from and against all liability to third parties arising out of, or related to, its performance of this



Agreement. The FAA assumes no liability under this Agreement for any losses arising out of any action or inaction by the Sponsor, its employees, or contractors, or any third party acting on its behalf.

#### **ARTICLE 17. Limitation of Liability**

To the extent permitted by law, the Sponsor agrees to indemnify and hold harmless the FAA, its officers, agents and employees from all causes of action, suits or claims arising out of the work performed under this Agreement. However, to the extent that such claim is determined to have arisen from the act or omission by an officer, agent, or employee of the FAA acting within the scope of his or her employment, this hold harmless obligation will not apply and the provisions of the Federal Tort Claims Act, 28 U.S.C. § 2671, et seq., will control. The FAA assumes no liability for any losses arising out of any action or inaction by the Sponsor, its employees, or contractors, or any third party acting on its behalf. In no event will the FAA be liable for claims for consequential, punitive, special and incidental damages, claims for lost profits, or other indirect damages.

#### **ARTICLE 18. Civil Rights Act**

The Sponsor will comply with Title VI of the Civil Rights Act of 1964 relating to nondiscrimination in federally assisted programs.

#### **ARTICLE 19. Protection of Information**

The parties agree that they will take appropriate measures to identify and protect proprietary, privileged, or otherwise confidential information that may come into their possession as a result of this Agreement.

#### **ARTICLE 20. Security**

In the event that the security office determines that the security requirements under FAA Order 1600.72A applies to work under this Agreement, the FAA is responsible for ensuring that security requirements, including compliance with AMS clause 3.14-2, Contractor Personnel Suitability Requirements are met.

#### **ARTICLE 21. Entire Agreement**

This document is the entire Agreement of the parties, who accept the terms of this Agreement as shown by their signatures below. In the event the parties duly execute any modification to this Agreement, the terms of such modification will supersede the terms of this Agreement to the extent of any inconsistency. Each party acknowledges participation in the negotiations and drafting of this Agreement and any modifications thereto, and that, accordingly, this Agreement will not be construed more stringently against one party than against the other. If this Agreement is not executed by the Sponsor within 120 calendar days after the FAA transmits it to the Sponsor, the terms contained and set forth in this Agreement shall be null and void.

AGREED:

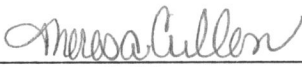
**FEDERAL AVIATION  
ADMINISTRATION**

SIGNATURE \_\_\_\_\_  
NAME \_\_\_\_\_  
TITLE Contracting Officer  
DATE \_\_\_\_\_

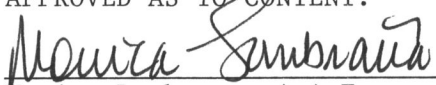
**CITY OF EL PASO**

SIGNATURE \_\_\_\_\_  
NAME Joyce A. Wilson  
TITLE City Manager  
DATE \_\_\_\_\_

APPROVED AS TO FORM:

  
Theresa Cullen  
Deputy City Attorney

APPROVED AS TO CONTENT:

  
Monica Lombrana, A.A.E.  
Director of Aviation